

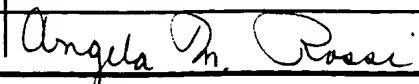
REC'D

<b>TRANSMITTAL FORM</b> <b>JUL 08 2002</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/923,891
		Filing Date	August 7, 2001
		First Named Inventor	Bryan
		Group Art Unit	3732
		Examiner Name	
Total Number of Pages in This Submission		Attorney Docket Number	
		46739/262602	

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers <i>(for an Application)</i> <input type="checkbox"/> Drawing(s) (amended) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> 1. Request for Issuance of a Corrected Filing Receipt 2. Copies of Filing Receipt, first page of Specification, Declaration for Patent Application and Utility Patent Application Transmittal
<input type="checkbox"/> Remarks		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Bruce D. Gray, Reg. No. 35,799	
Signature		
Date	6/18/02	

CERTIFICATE OF MAILING		
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date: <u>6/18/02</u>		
Typed or printed name	Angela M Rossi	
Signature		

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Vincent Bryan, et al.

Serial No.: 09/923,891

Group Art Unit: 3732

Filed: August 7, 2001

Examiner: unknown

For: METHOD AND APPARATUS  
FOR STEREOTACTIC  
IMPLANTATION

Commissioner for Patents  
Office of Initial Patent Examination  
Customer Service Center  
Washington, D.C. 20231

Attorney Docket No. 46739/262602  
Date: 6/18/02

**REQUEST FOR ISSUANCE OF A CORRECTED FILING RECEIPT**

Sir:

Applicants respectfully request issuance of a corrected filing receipt in the above-identified patent application making the following correction.

Kindly correct the spelling of last word in the title from "IMPLEANTATION" to "IMPLANTATION."

Enclosed are copies of the official Filing Receipt with the correction noted, the first page of the Specification, the Declaration for Patent Application and the Utility Patent Application Transmittal confirming the correct spelling.

Respectfully requested,

Bruce D. Gray  
Reg. No. 35,799

ATTORNEY FOR ASSIGNEE

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Atlanta, Georgia 30309-4530  
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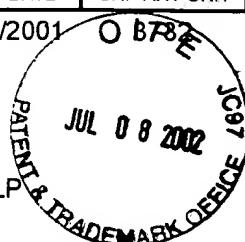


# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/923,891	08/07/2001	O B78 E	5328	46739/262602	82	338	54

23370  
JOHN S. PRATT, ESQ  
KILPATRICK STOCKTON, LLP  
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SUITE 2800  
ATLANTA, GA 30309



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**CONFIRMATION NO. 3548**

**UPDATED FILING RECEIPT**



\*OC00000008141680\*

Date Mailed: 05/20/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Vincent Bryan, Mercer Island, WA;  
Alex Kunzler, Issaquah, WA;  
Robert Conta, Mercer Island, WA;  
Randy Allard, SE North Bend, WA;  
Richard J. Broman, Kirkland, WA;  
Anthony Finazzo, Lake Forest Park, WA;  
Carlos E. Gil, Sammamish, WA;  
Jeffrey P. Rouleau, Redmond, WA;  
Leonard Tokish JR., Issaquah, WA;

## Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CIP OF 09/783,860 02/13/2001 ABN  
AND IS A CIP OF 09/783,910 02/13/2001  
WHICH CLAIMS BENEFIT OF 60/223,863 08/08/2000  
AND CLAIMS BENEFIT OF 60/265,218 01/31/2001

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## Foreign Applications

If Required, Foreign Filing License Granted 09/11/2001

Projected Publication Date: 08/22/2002

Non-Publication Request: No

ENTERED COMPUTER

6-1-2002 SKB  
7120100 0-0

Early Publication Request: No

\*\* SMALL ENTITY \*\*

Title

Method and apparatus for stereotactic impleatation



Preliminary Class

600

implantation

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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# IMPROVED METHOD AND APPARATUS FOR STEREOTACTIC IMPLANTATION

This application is a continuation-in-part of U. S. Patent Application Serial No. 09/783,860, filed on February 13, 2001, having the title "METHOD AND APPARATUS FOR STEREOTACTIC IMPLANTATION," and a continuation-in-part of U. S. Patent Application Serial No. 09/783,910, filed on February 13, 2001, having the title "IMPLANTABLE JOINT PROSTHESIS," both of which claim benefit under 35 U.S.C. § 119(e) of Provisional U.S. Serial No. 60/223,863, filed August 8, 2000, and entitled "INSTRUMENTATION AND METHOD FOR IMPLANTING A PROSTHETIC INTERVERTEBRAL BODY" and of Provisional U.S. Serial No. 60/265,218 entitled "GRAVITY ASSISTED LOCALIZATION SYSTEM," filed January 31, 2001, all of which are hereby incorporated herein by this reference.

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## BACKGROUND OF THE INVENTION

### 1. FIELD OF THE INVENTION

15 The invention relates to methods and associated instrumentation for stereotactically locating the site of a prosthetic implant in a body, and in particular to methods and associated instrumentation for stereotactically locating and preparing the site for an intervertebral endoprosthesis, and to precisely implanting the endoprosthesis.

### 2. DESCRIPTION OF RELATED ART

20 The proper location of any endoprosthetic implant is a key element of the success of the implantation procedure in improving patient quality of life. In spinal implants, for example, properly locating the endoprosthesis ensures among other benefits that the patient will enjoy the full range of motion offered by the implant.

25 The use of intervertebral implants (arthroplasty) has, in recent years, attained increasing acceptance as a preferable alternative to spinal fusion (arthrodesis) as a method for treating patients where discectomy is indicated. This is in part due to recent advances in implant technology, and in part due to the increasing appreciation of the

1205892

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**UTILITY  
PATENT APPLICATION  
TRANSMITTAL**

JUL 08 2002

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No. 46739/250563

First Inventor Vincent Bryan

Title Improved Method and Apparatus for Stereotactic Implantation

Express Mail Label No. EL603000828US

**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents.

1.  Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)

2.  Applicant claims small entity status.  
See 37 CFR 1.27.

3.  Specification [Total Pages 183]  
(preferred arrangement set forth below)  
- Descriptive title of the Invention  
- Cross References to Related Applications  
- Statement Regarding Fed sponsored R & D  
- Reference to sequence listing, a table, or a computer program listing appendix  
- Background of the Invention  
- Brief Summary of the Invention  
- Brief Description of the Drawings (if filed)  
- Detailed Description  
- Claim(s)  
- Abstract of the Disclosure

4.  Drawing(s) (35 U.S.C. 113) [Total Sheets 82]

5. Oath or Declaration [Total Pages 5]  
a.  Newly executed (original or copy)  
b.  Copy from a prior application (37 CFR 1.63 (d))  
(for a continuation/divisional with Box 18 completed)  
i.  **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s)  
named in the prior application, see 37 CFR  
1.63(d)(2) and 1.33(b).

6.  Application Data Sheet. See 37 CFR 1.76

**ADDRESS TO:** Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

7.  CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)

8. Nucleotide and/or Amino Acid Sequence Submission  
(if applicable, all necessary)

a.  Computer Readable Form (CRF)  
b. Specification Sequence Listing on:  
i.  CD-ROM or CD-R (2 copies); or  
ii.  paper  
c.  Statements verifying identity of above copies

**ACCOMPANYING APPLICATIONS PARTS**

9.  Assignment Papers (cover sheet & document(s))

10.  37 C.F.R. §3.73(b) Statement  Power of Attorney  
(when there is an assignee)

11.  English Translation Document (if applicable)

12.  Information Disclosure Statement (IDS)/PTO-1449  Copies of IDS Citations

13.  Preliminary Amendment

14.  Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)

15.  Certified Copy of Priority Document(s)  
(if foreign priority is claimed)

16.  Request and Certification under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.

17.  Other: \_\_\_\_\_

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

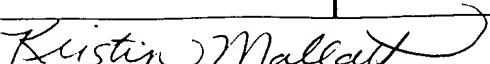
 Continuation  Divisional  Continuation-in-part (CIP) of prior application No: 09/783,860 / 09/783,910;  
60/265,218; 60/223,863

Prior application information: Examiner \_\_\_\_\_ Group / Art Unit: \_\_\_\_\_

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**17. CORRESPONDENCE ADDRESS**

<input checked="" type="checkbox"/> Customer Number or Bar Code Label		 (Insert Customer number or bar code label here)		<input type="checkbox"/> Correspondence address below <b>RECEIVED</b> <b>JUL 24 2002</b> <b>TECHNOLOGY CENTER R3700</b>		
Name	John S. Pratt Kilpatrick Stockton LLP					
Address	1100 Peachtree Street Suite 2800					
City	Atlanta	State	GA	Zip Code	30309	
Country	USA	Telephone	404.815.6500		Fax	404.815.6555

Name (Print/Type)	Kristin D. Mallatt	Registration No. (Attorney/Agent)	46,895
Signature			Date
			August 7, 2001

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231

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**DECLARATION FOR PATENT APPLICATION** Original Supplemental Substitute PCT

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below), or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**IMPROVED METHOD AND APPARATUS FOR STEREOTACTIC IMPLANTATION**

(Title of the Invention)

the specification of which (check one)

is attached hereto

was filed on August 7, 2001 as U.S. Serial No. 09/923,891

and was amended on

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 (a) - (d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified, by checking the box below, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)			Priority Claimed		Copies Submitted	
Application Number	Country	Foreign Filing Date (MM/DD/YYYY)	YES	NO	YES	NO

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below and claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application(s) designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

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Patent Application Number	Filing Date	Status		
		Patented	Pending	Abandoned
60/223,863	August 8, 2000		X	
60/265,218	January 31, 2001		X	
09/783,910	February 13, 2001		X	
09/783,860	February 13, 2001		X	

As a named inventor, I hereby revoke all prior powers and appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

FIRM NAME: KILPATRICK STOCKTON LLP, 1100 Peachtree Street, Suite 2800, Atlanta, Georgia 30309-4530

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Geoff L. Sutcliffe	36,348
Pat Winston Kennedy	36,970
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Suzanne Seavello Shope	37,933
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Suil Kang	39,723
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Attorney and/or Agent	Registration No.
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Theodore M. Green	41,801
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Heather D. Carmichael	42,389
Thomas A. Corrado	42,439
John K. McDonald	42,860
Sima Singadia Kulkarni	43,732
Camilla Camp Williams	43,992
Christopher J. Chan	44,070
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John William Ball, Jr.	44,433
Dawn-Marie Bey	44,442
Tiep H. Nguyen	44,465
John M. Briski	44,562
Michael J. Dimino	44,657
Kristin L. Johnson	44,807
Paul E. Knowlton	44,842
J. Jason Link	44,874
Cheryl L. Huseman	45,392
Shelby B. Grier	45,785
Jennifer R. Seng	45,851
Vaibhav P. Kadaba	45,865
Greg Moldafsky	46,514
J. Michael B. Goss	46,563
Michael K. Dixon	46,665
Tywanda L. Harris	46,758
Kristin D. Mallatt	46,895
Cynthia B. Rothschild	47,040
John C. Alemanni	47,384
Geoffrey K. Gavin	47,591

Filed: August 7, 2001

Inventors: Vincent Bryan, et al.

For: Impr v ed Meth d and Apparatus for Stereotactic Implantation

Declaration for Patent Application

Page 3

Attorney and/or Agent	Registration No.
Brenda Ozaki Holmes	40,339
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Michael J. Turton	40,852
Y ncha L. Kundupoglu	41,130
Sc tt Zimmerman	41,390

Attorney and/or Agent	Registration No.
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Robert M. Stevens	47,972
Christopher L. Bernard	P48,234
Laura M. Kelley	P48,441
Michael A. Bush	P48,893

Earl M. Douglas 31,723

I acknowledge the above-listed attorneys and agents and their firm Kilpatrick Stockton LLP represent my employer (if I am an employee and this application has been or will be assigned to my employer) or the entity with which I have contracted (if I am an independent contractor and this application has been or will be assigned to such entity) and in such cases do not represent me individually. I further acknowledge I have not established, nor will I seek to establish, any personal attorney/client relationship with Kilpatrick Stockton LLP in connection with this application and understand that, should I require legal representation, I will obtain such, at my expense, other than through Kilpatrick Stockton LLP.

Send Correspondence to:

John S. Pratt, Esq.  
 Kilpatrick Stockton LLP  
 1100 Peachtree Street, Suite 2800  
 Atlanta, Georgia 30309-4530

Customer No. 23370



23370

PATENT TRADEMARK OFFICE

Direct telephone calls to:

Bruce D. Gray, Esq. (404) 815.6218

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor

Vincent Bryan

Inventor's signature

Date

21 Feb 02

Residence

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Citizenship

USA

Post Office Address

Same as above

Full name of second inventor

Alex Kunzler

Inventor's signature

Date

2-15-02

Residence

22748 SE 43<sup>rd</sup> Ct., Issaquah, WA 98029

Citizenship

USA

Post Office Address

Same as above

U.S. Serial No. 09/923,891

Filed: August 7, 2001

Inventors: Vincent Bryan, et al.

For: Improved Method and Apparatus for Stereotactic Implantation

Declaration for Patent Application

Page 4

Full name of eighth inventor Robert Conta

Inventor's signature Robert Conta Date 2/8/02

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Citizenship USA

Post Office Address Same as above

Full name of ninth inventor Randy Allard.

Inventor's signature Randy Allard Date 2-8-02

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Citizenship USA

Post Office Address Same as above

Full name of eighth inventor Richard J. Broman

Inventor's signature Richard J. Broman Date 2/8/02

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Full name of eighth inventor Anthony Finazzo

Inventor's signature Anthony Finazzo Date 2/8/02

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Citizenship USA

Post Office Address Same as above

Full name of eighth inventor Carlos Gil

Inventor's signature Quan Gil Date 2/8/02

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U.S. Serial No. 09/923,891

Filed: August 7, 2001

Inventors: Vincent Bryan, et al.

For: Improved Method and Apparatus for Stereotactic Implantation

Declaration for Patent Application

Page 5

R 52602

P

Full name of eighth inventor Jeffrey Rouleau

Inventor's signature Jeffrey P. Rouleau Date 8 Feb 2002

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3700

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Bib Data Sheet

FILE CO<sub>1</sub>

CONFIRMATION NO. 3548

SERIAL NUMBER 09/923,891	FILING DATE 08/07/2001 RULE	CLASS 600	GROUP ART UNIT 3732	ATTORNEY DOCKET NO. 46739/262602
-----------------------------	-----------------------------------	--------------	------------------------	----------------------------------------

**APPLICANTS**

Vincent Bryan, Mercer Island, WA;  
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Robert Conta, Mercer Island, WA;  
Randy Allard, SE North Bend, WA;  
Richard J. Broman, Kirkland, WA;  
Anthony Finazzo, Lake Forest Park, WA;  
Carlos E. Gil, Sammamish, WA;  
Jeffrey P. Rouleau, Redmond, WA;  
Leonard Tokish JR., Issaquah, WA;

**\*\* CONTINUING DATA \*\*\*\*\***

THIS APPLICATION IS A CIP OF 09/783,860 02/13/2001 ABN  
AND IS A CIP OF 09/783,910 02/13/2001  
WHICH CLAIMS BENEFIT OF 60/223,863 08/08/2000  
AND CLAIMS BENEFIT OF 60/265,218 01/31/2001

**\*\* FOREIGN APPLICATIONS \*\*\*\*\***

**IF REQUIRED, FOREIGN FILING LICENSE GRANTED \*\* SMALL ENTITY \*\***  
\*\* 09/11/2001

Foreign Priority claimed	<input type="checkbox"/> yes <input type="checkbox"/> no	STATE OR COUNTRY WA	SHEETS DRAWING 82	TOTAL CLAIMS 338	INDEPENDENT CLAIMS 54
35 USC 119 (a-d) conditions met	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> Met after Allowance				

**ADDRESS**

23370

**TITLE**

Method and apparatus for stereotactic implantation

FILING FEE RECEIVED 5328	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	<input type="checkbox"/> All Fees
		<input type="checkbox"/> 1.16 Fees ( Filing )
		<input type="checkbox"/> 1.17 Fees ( Processing Ext. of time )
		<input type="checkbox"/> 1.18 Fees ( Issue )
		<input type="checkbox"/> Other _____
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